

Purpose: For Decision

## Committee report

Committee	<b>CABINET</b>
Date	<b>TUESDAY, 8 OCTOBER 2013</b>
Title	<b>ESTABLISHMENT OF A PROPERTY DISPOSAL AND CAPITAL PROGRAMME SUB COMMITTEE OF THE CABINET</b>
Report of	<b>LEADER OF THE COUNCIL</b>

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### EXECUTIVE SUMMARY

1. To adopt revised arrangements for the approval of property disposals and consideration of the capital programme through the establishment of a sub committee of the cabinet to meet an hour in advance of cabinet meetings. This would be open to the press and public and all councillors to attend.

### BACKGROUND

2. As part of the approach taken by the new administration following the elections all member level executive decisions are taken at meetings of the Cabinet, or, when appropriate, by officers. Previously many of the decisions relating to the disposal of property were dealt with by cabinet member delegated decisions.
3. A review of all property disposals was undertaken after the election this has meant that there has been a build up of items requiring a decision.
4. There is an established procedure for the disposal of property, including consultation with ward members and local parish and town councils when appropriate.
5. At a time when there are a number of key challenges for the council particularly in relation to budget pressures it is important that there is sufficient time allocated, at meetings of the Cabinet, to consider the budget and policy items. One approach to ensuring that the available time is spent on the most important budget and policy items, whilst retaining transparency and accountability, would be to establish a cabinet sub committee specifically to deal with property disposals and the capital programme.
6. Meetings of the sub committee would be open to the public and press and could be attended by any member of the council.
7. As an executive decision it would still be subject to the call in provisions, whereby after the sub committee had made its decision there would be a period of 5 days from the date the decision has been published during which 3 members (2 of whom must be on the Overview and Scrutiny Committee) could "call-in" the decision so that it would not be

implemented until the Overview and Scrutiny Committee had considered the matter and, if necessary, made a recommendation back to the sub committee for them to reconsider the decision.

8. The Council also has a capital programme and budget, which historically has covered the investment in fixed assets amounting to between £25m and £50m each year including for example highways, school buildings and fire vehicles. The programme's affordability is determined to a large extent on whether its financing through borrowing can be accommodated within the council's revenue budget and it is therefore appropriate that there is greater scrutiny of proposals for new projects and changes to the approved programme (eg virements or slippage). The proposal to set up a sub committee will therefore provide this greater opportunity to oversee the programme. Receipts from asset disposals also provide one of the sources of financing capital expenditure, and it is therefore sensible for the two issues - expenditure and its financing - to be considered together by the proposed sub committee.

## STRATEGIC CONTEXT

9. The establishment of a sub committee is in line with the broad objectives set out in the Framework for Change which full Council has agreed should be used as a basis for developing the council's approach to its corporate plan.
10. The strategic asset management plan governs the council's approach to the management and utilisation of its property assets. This underpins the programme for the rationalisation of surplus properties. The capital receipts programme covers the capital disposals and is updated and agreed by cabinet on an annual basis. Capital receipts are one source of capital finance which avoids the need to borrow and therefore is seen as an important element of allowing investment in council assets.
11. The constitution includes the code of practice for members and officers dealing with property transactions. This sets out how such transactions will be dealt with by members and officers.
12. The council's capital programme represents the council's investment in the renewal and replacement of council assets which in turn supports the delivery of its strategic aims. Such investment generates significant benefits to the community and users of council services which are realised over the life of the assets created. The establishment of the sub committee will provide greater opportunity for the programme to be managed effectively to achieve the council's strategic aims.

## CONSULTATION

13. This issue has been discussed by the leader, cabinet member for resources and chairman of the Overview and Scrutiny Committee.
14. The inclusion of the majority of the surplus assets in the capital receipts disposals programme follows a process of consultation with relevant stakeholders. In many instances they will have been informed of the method of disposal to be followed.
15. As part of the process the capital receipts programme is shared with town and parish councils and their views taken into account before the final decision is made.

16. The Overview and Scrutiny Committee has the ability to review the capital receipts disposal programme.

#### FINANCIAL / BUDGET IMPLICATIONS

17. There are no direct resource implications arising from the establishment of a sub committee. The revised arrangements are aimed at making the decision making process more effective and efficient. It will enable meetings of the cabinet to be able to focus on key financial and strategic issues.
18. There is a small financial implication from setting up and providing agendas for separate meetings of the sub committee. But these will be very small as reports would need to be published in any case.
19. Although establishing a sub committee to oversee both the disposal programme and the investment programme will not in itself involve significant expense, the value of both disposals and the capital programme are significant. The affordability of the capital programme is a key consideration in the council's medium term financial strategy.

#### LEGAL IMPLICATIONS

20. The council has the power to dispose of property under Section 123 of the Local Government Act 1972, requiring that best consideration has been achieved.
21. Decisions about the disposal of property is an executive function. It is a matter for the cabinet to determine how it wishes to discharge this, which can by decisions of the cabinet, or delegated to a sub committee or an individual member or a delegation to officers.
22. This matter has not appeared in the forward plan, as the principle of setting up this sub committee has only recently been formulated. Legally only "key decisions" have to have appeared on the forward plan to give at least 28 days' notice of the intended decisions. Items can appear for a shorter period provided that the chairman of the Overview and Scrutiny Committee has agreed that the item is urgent. Although not legally required (as it is not a key decision) in recognition of the formal process this matter has been discussed with the chairman of the Overview and Scrutiny Committee who is happy for it to be considered by Cabinet, although it has not appeared on the forward plan.

#### EQUALITY AND DIVERSITY

23. There are no direct implications for the council's duties under the terms of the Equality Act 2010 arising from the recommendation in this report. The council will have regard to its duties as each disposal comes forward.

#### PROPERTY IMPLICATIONS

24. The effective management of council property is the key principle behind the Strategic Asset management strategy. The processes that support this should make effective and efficient use of all resources.

## CARBON EMISSIONS

25. There are no implications on carbon emissions with regards to the proposal to establish the sub committee. The impact of any actual property disposals on the Council's Carbon Management Plan will continue to be measured and reported and will be part of the consideration of the sub committee.

## OPTIONS

26. Option 1 – to establish a Property Disposals and Capital Programme Sub Committee with a terms of reference as set out in the appendix to the report, to be responsible for all decisions relating to the disposal of property identified in the capital receipts disposal programme and for the capital programme.
27. Option 2 - to retain the current process whereby all reports are considered by the cabinet.

## RISK MANAGEMENT

28. If the council does not have an effective decision making process to deal with the dispose of surplus assets or rationalise its operational accommodation portfolio it will not be making best use of its assets.
29. All of the options are acceptable methods of governance and decision making. Any change carries a risk that there may be unexpected consequences however this can be overcome by a clear explanation once the process has been agreed.
30. The sub committee's oversight of the capital programme and decisions about individual projects will enhance the council's governance arrangements. The risk of failing to deliver projects in a timely manner and within budgets will be better managed.

## EVALUATION

31. The recommendation provides a mechanism that refines the decision making process for dealing with property disposals without reducing transparency or accountability. All members would still have the opportunity to comment on each item.
32. The ability of the Overview and Scrutiny Committee to call in a decision is unaffected by this proposal.
33. The recommendation also provides a mechanism for more effective management of the council's capital programme, leading to better delivery of the benefits anticipated from projects and increased value for money.

## RECOMMENDATION

34. Option 1 – to establish a Property Disposals and Capital Programme Sub Committee with a terms of reference as set out in the appendix to the report, to be responsible for all decisions relating to the disposal of property identified in the capital receipts disposal programme and for the capital programme.

APPENDICES ATTACHED

35. [APPENDIX](#) – terms of reference.

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